

ESTTA Tracking number: **ESTTA278123**

Filing date: **04/15/2009**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Pizzeria Uno Corporation		
Entity	Corporation	Citizenship	Delaware
Address	1209 Orange Street Wilmington, DE 19801 UNITED STATES		

Attorney information	John L. Welch Lowrie, Lando & Anastasi, LLP One Main Street, Eleventh Floor Cambridge, MA 02142 UNITED STATES jlwtrademarks@ll-a.com, gmaclellan@ll-a.com Phone:617-395-7000		
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Applicant Information

Application No	77619941	Publication date	04/07/2009
Opposition Filing Date	04/15/2009	Opposition Period Ends	05/07/2009
Applicant	Frank M. Baroudi 511 Lake Louise Circle #201 Naples, FL 34110 UNITED STATES		

Goods/Services Affected by Opposition

Class 033. All goods and services in the class are opposed, namely: Grape wine; Port wines; Red wine; Red wines; Sweet wines; Table wines; White wine; Wine; Wines; Wines and fortified wines; Wines and liqueurs; Wines and sparkling wines

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1089458	Application Date	05/26/1977
Registration Date	04/11/1978	Foreign Priority Date	NONE
Word Mark	PIZZERIA UNO		
Design Mark			
Description of Mark	NONE		

Goods/Services	Class 042. First use: First Use: 1954/11/00 First Use In Commerce: 1954/11/00 RESTAURANT SERVICES		
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U.S. Registration No.	1329014	Application Date	01/18/1982
Registration Date	04/02/1985	Foreign Priority Date	NONE
Word Mark	UNO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1954/11/00 First Use In Commerce: 1954/11/00 Restaurant Services		

U.S. Registration No.	1586246	Application Date	07/14/1989
Registration Date	03/06/1990	Foreign Priority Date	NONE
Word Mark	UNO'S		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1989/04/00 First Use In Commerce: 1989/04/00 RESTAURANT SERVICES		

U.S. Registration No.	1615917	Application Date	07/25/1989
Registration Date	10/02/1990	Foreign Priority Date	NONE
Word Mark	UNO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 1980/00/00 First Use In Commerce: 1980/00/00 PARTIALLY PRE-COOKED PIZZA SOLD IN RETAIL STORES AND IN RESTAURANTS		

U.S. Registration No.	1757093	Application Date	07/15/1992
Registration Date	03/09/1993	Foreign Priority Date	NONE
Word Mark	UNO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 1991/06/00 First Use In Commerce: 1991/06/00 calzones		

U.S. Registration No.	1814299	Application Date	07/15/1992
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Registration Date	12/28/1993	Foreign Priority Date	NONE
Word Mark	UNO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 1979/04/05 First Use In Commerce: 1979/04/05 salad dressings, soups, and fruit, garden, and vegetable salads Class 030. First use: First Use: 1987/09/00 First Use In Commerce: 1987/09/00 pasta salads, and entrees composed primarily of pasta		

U.S. Registration No.	2561335	Application Date	07/26/2000
Registration Date	04/16/2002	Foreign Priority Date	NONE
Word Mark	UNO AMBER ALE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 1995/05/00 First Use In Commerce: 1995/05/00 ale		

U.S. Registration No.	2946476	Application Date	12/26/2002
Registration Date	05/03/2005	Foreign Priority Date	NONE
Word Mark	PIZZERIA UNO CHICAGO GRILL EST. 1943		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 043. First use: First Use: 2002/00/00 First Use In Commerce: 2002/00/00		

	Restaurant services		
U.S. Registration No.	2958581	Application Date	11/06/2003
Registration Date	05/31/2005	Foreign Priority Date	NONE
Word Mark	PIZZERIA UNO CHICAGO GRILL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 043. First use: First Use: 2002/00/00 First Use In Commerce: 2002/00/00 restaurant services		

U.S. Registration No.	3102324	Application Date	06/10/2005
Registration Date	06/06/2006	Foreign Priority Date	NONE
Word Mark	UNO INSIDER'S CLUB		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2005/08/00 First Use In Commerce: 2005/08/00 Customer loyalty services for restaurant customers for commercial, promotional and advertising purposes provided via e-mail, the Internet and other means of communication		

U.S. Registration No.	2900824	Application Date	06/11/2003
Registration Date	11/02/2004	Foreign Priority Date	NONE
Word Mark	UNO CHICAGO GRILL		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 043. First use: First Use: 2002/11/01 First Use In Commerce: 2002/11/01 restaurant services

U.S. Registration No.	2953679	Application Date	11/04/2003
Registration Date	05/17/2005	Foreign Priority Date	NONE

Word Mark	UNO CHICAGO GRILL EST. 1943
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Description of Mark	NONE
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Goods/Services	Class 043. First use: First Use: 2002/11/01 First Use In Commerce: 2002/11/01 restaurant services
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Attachments	76096861#TMSN.gif (1 page)(bytes) 76478433#TMSN.gif (1 page)(bytes) 78324137#TMSN.jpeg (1 page)(bytes) 78648627#TMSN.jpeg (1 page)(bytes) 78323009#TMSN.jpeg (1 page)(bytes) 77619941 Notice of Opposition.pdf (5 pages)(205459 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/johnlwelch/
Name	John L. Welch
Date	04/15/2009

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

_____)	
Pizzeria Uno Corporation,)	
)	
Opposer,)	
)	Opposition No.
v.)	
)	
Frank M. Baroudi d/b/a Puro Uno,)	Application S.N.
)	77619941
Applicant.)	
_____)	

OPPOSITION

PIZZERIA UNO CORPORATION (Opposer), a Delaware corporation with an office at 1209 Orange Street, Wilmington, Delaware 19801, believes that it will be damaged by registration of the mark PURO UNO, which mark is the subject of Application Serial No. 77619941, filed by Frank M. Baroudi d/b/a Puro Uno, of Naples, Florida, and which mark was published for opposition in the *Official Gazette* of April 7, 2009.

The grounds for the opposition are as follows:

1. Applicant seeks to register the mark PURO UNO as a trademark for, *inter alia*, " Grape wine; Port wines; Red wine; Red wines; Sweet wines; Table wines; White wine; Wine; Wines; Wines and fortified wines; Wines and liqueurs; Wines and sparkling wines " (in international class 33).
2. The opposed Application was filed on November 21, 2008, based upon an alleged *bona fide* intention to use the mark in commerce.
3. In 1943, Opposer's predecessor in interest adopted the marks and names PIZZERIA UNO and UNO, and Opposer and its predecessors have since used said

marks and names in interstate commerce, continuously and extensively, in connection with restaurant services and food products, including the serving of beverages, both alcoholic and non-alcoholic. Among the beverages served in Opposer's restaurants have been liquid refreshments offered under the marks UNO AMBER ALE, CAFE UNO, UNO COLADA, SANGRIA PUNCHERUNO, and UNOMARTINI. Currently, the beverages offered at Opposer's restaurants are featured in a menu entitled BAR UNO.

4. There are presently in operation approximately two hundred (200) UNO restaurants throughout the United States, which collectively serve tens of millions of customers each year. In addition, Opposer has extensively and continuously used its marks and names for many years in connection with the sale of food products in retail stores. Through extensive advertising, promotion, and use of the marks and names PIZZERIA UNO and UNO, and variations thereof, Opposer has built a strong national reputation for high quality restaurant services and food and beverage products sold thereunder. The marks and names UNO and PIZZERIA UNO have, long prior to Applicant's filing date, come to be famous, and they uniquely and distinctively identify Opposer and its products and services.

5. Opposer is the owner of, *inter alia*, the following United States Trademark and Service Mark Registrations:

<u>Reg. No.</u>	<u>Mark</u>	<u>Issued</u>	<u>Goods and Services</u>
1,089,458	PIZZERIA UNO	4/11/78	restaurant services
1,329,014	UNO	4/2/85	restaurant services
1,586,246	UNO'S	3/6/90	restaurant services
1,615,917	UNO	10/2/90	partially pre-cooked pizza sold in retail stores and in restaurants
1,757,093	UNO	3/9/93	calzones
1,814,299	UNO	12/28/93	salad dressings, soups, and fruit, garden and vegetable salads; pasta salads, and entrees composed primarily of pasta

2,561,335	UNO AMBER ALE	4/16/02	ale
2,900,824	UNO CHICAGO GRILL	11/2/04	restaurant services
2,946,476	PIZZERIA UNO CHICAGO GRILL & Design	5/3/05	restaurant services
2,953,679	UNO CHICAGO GRILL & Design	5/17/05	restaurant services
2,958,581	PIZZERIA UNO CHICAGO GRILL & Design	11/6/05	restaurant services
3,102,324	UNO INSIDER'S CLUB & Design	6/10/06	customer loyalty services for restaurant customers for commercial, promotional and advertising purposes provided via e-mail, the Internet and other means of communication.

6. The goods set forth in Class 33 in Application Serial No. 77619941 are closely related to the goods and services in connection with which Opposer has used and is using its UNO, PIZZERIA UNO, and related marks, and, on information and belief, those goods will be offered to the same general class of customers who purchase the goods and services in connection with which Opposer has used and is using its various UNO and PIZZERIA UNO marks.

7. The applied-for mark sought to be registered by Applicant incorporates Opposer's registered mark UNO and is substantially similar to Opposer's marks set forth above.

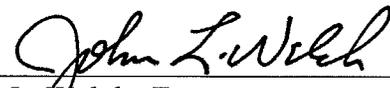
8. The goods identified in Class 33 of Application Serial No. 77619941 are sufficiently related to the goods and services in connection with which Opposer has used and is using its UNO and PIZZERIA UNO marks that, if Applicant's mark is used in connection with those goods, it would be likely to cause confusion, mistake, or deception of the relevant trade and public. Customers and potential customers are likely to believe that Applicant's goods offered under the mark PURO UNO emanate

from, or are licensed or approved by, Opposer, when that is not the case. Such confusion would be a source of damage to Opposer.

9. If Applicant is granted the registration herein opposed, it would thereby obtain a *prima facie* exclusive right to use of the PURO UNO mark, which would be a further source of damage to Opposer.

WHEREFORE, Opposer believes that it will be damaged by registration of said mark, and prays that this Opposition be sustained as to the goods of Class 33, that Application Serial No. 77619941 be rejected with regard to the Class 33 goods, and that the mark applied for therein be refused registration in Class 33.

PIZZERIA UNO CORPORATION

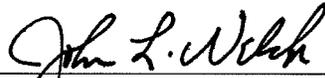
 4-15-09

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617/395-7000

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 15th day of April, 2009, a true copy of the foregoing NOTICE OF OPPOSITION was served by first-class mail, postage pre-paid on:

Frank M. Baroudi DBA Puro Uno
511 Lake Louise Circle #201
Naples, Florida 34110



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